DOCKET NO. HHD CV-21-6146061 S

SUPERIOR COURT

KAREN RIORDAN AKA AMBROSE, ET AL

J. D. OF HARTFORD

VS.

AT HARTFORD

NED LAMONT, ET AL

JANUARY 27, 2022

MEMORANDUM OF DECISION

On December 22, 2021, by remote hearing, the court heard oral argument concerning the defendants' motion to dismiss (#103) (motion). At the close of the hearing, the court deemed the motion to be fully submitted for the court's consideration and reserved decision.

In this action, the plaintiffs, Karen Riordan, also known as Karen Ambrose (hereafter referred to individually as Riordan), on behalf of herself and her children, seek injunctive relief against various public officials, including Governor Ned Lamont. Citing the pendency of family relations proceedings before other courts, the plaintiffs seek from this civil court the issuance of orders, including the transfer of custody of the three minor children to Riordan, and the arrest of the children's father, Christopher Ambrose (Ambrose) and unspecified others. See Application for Ex-parte Order of Injunction (#100.31) (application) and Verified Complaint (#100.32), in affidavit form (complaint).

The defendants contend that the court lacks both subject matter and personal jurisdiction. In support of their motion, the defendants filed a memorandum of law (#104). They argue that this court lacks jurisdiction to undo or undermine the rulings of another trial court under any circumstances and that sovereign immunity bars the plaintiffs claims. In addition, they assert that Riordan lacks standing to bring claims on behalf of her children.

Although the plaintiffs were afforded extensions of time to do so, they filed no papers in opposition to the motion. See the court's orders concerning the schedule (##102, 105, 106.87,

115

and 109.86).

After consideration, the court issues this memorandum of decision.

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Background

The court summarizes below the plaintiffs' allegations in the application and the complaint. Riordan alleges that she and her children have and continue to suffer from domestic violence and from litigation abuse. She avers that she and her children have been denied relief that she should have been granted, pursuant to the laws and rules of procedure of this State, by various venues and agencies.

In particular, she cites two Superior Court matters, *Ambrose* v. *Ambrose*, Docket No. FBT FA 19 6088163, a dissolution of marriage action in which she is a party litigant, now pending in the Regional Family Trial Docket in Middletown (referred to below as the "Dissolution Action"); and *Riordan* v. *Ambrose*, Docket No. NNH FA 20 5049348, a relief from physical abuse proceeding, see General Statutes Sec. 46b-15, in which she is the applicant, which was originally pending in the judicial district of New Haven and also was transferred to the Regional Family Trial Docket. In addition, she alleges that she is the moving party in a petition for neglect filed on behalf of the minor children in the Superior Court for Juvenile Matters in New Haven. She alleges that, in direct derogation to the actual evidence, the various venues and agencies have failed to protect her children.

The plaintiffs also list various motions in these other proceedings which were either not addressed, or were addressed in ways that were in derogation to the law and rules of practice. In addition, the plaintiffs refer to court orders in the other proceedings which they believe were

incorrect or were not complied with. The plaintiffs also make extensive references to evidence in the other proceedings.

In the application, the plaintiffs seek injunctive relief, including: ordering the defendants to immediately take all actions mandated by the laws and procedures of this State to protect Riordan and the children, including an immediate order of protection; and an order transferring custody of the children to her and prohibiting contact with the children by their father and others; and a warrant for the arrest of Ambrose and co-defendants. In addition, the application seeks an order restraining the defendants from all further actions of coercion, retribution, discrimination and harassment of Riordan, her children and her attorney.

Additional references to the background are set forth below.

II

Standard of Review

"[A] motion to dismiss . . . properly attacks the jurisdiction of the court, essentially asserting that the plaintiff cannot as a matter of law and fact state a cause of action that should be heard by the court." (Internal quotation marks omitted.) *Santorso* v. *Bristol Hospital*, 308 Conn. 338, 350, 63 A.3d 940 (2013). "A motion to dismiss tests, inter alia, whether, on the face of the record, the court is without jurisdiction." (Internal quotation marks omitted.) *MacDermid, Inc.* v. *Leonetti*, 310 Conn. 616, 626, 79 A.3d 60 (2013). "A court deciding a motion to dismiss must determine not the merits of the claim or even its legal sufficiency, but rather, whether the claim is one that the court has jurisdiction to hear and decide." (Internal quotation marks omitted.) *Hinde* v. *Specialized Education of Connecticut, Inc.*, 147 Conn. App. 730, 740-41, 84 A.3d 895 (2014).

"In ruling on a motion to dismiss for lack of subject matter jurisdiction, the trial court must consider the allegations of the complaint in their most favorable light . . . including those facts necessarily implied from the allegations" (Internal quotation marks omitted.)

Mendillo v. Tinley, Renehan & Dost, LLP, 329 Conn. 515, 522–23, 187 A.3d 1154 (2018). In its review, a court must be "mindful of the well established notion that, in determining whether a court has subject matter jurisdiction, every presumption favoring jurisdiction should be indulged." (Internal quotation marks omitted.) Id., 523.

In response to the motion, the plaintiffs have not raised a critical jurisdictional fact requiring resolution with an evidentiary hearing. "[W]here a jurisdictional determination is not dependent on the resolution of a meaningful factual dispute, there is no requirement that the court conduct a fact-based hearing." *Countrywide Home Loans Servicing, LP* v. *Creed*, 145 Conn. App. 38, 47, 75 A.3d 38, cert. denied, 310 Conn. 936, 79 A.3d 889 (2013).

In support of their motion, the defendants argue that since the plaintiffs failed to file a memorandum in opposition in compliance with the court's scheduling orders and Practice Book Sec. 10-31 (a) (party shall have thirty days from the filing of a motion to dismiss to respond by filing a memorandum of law in opposition to the motion), they have waived their right to oppose the motion. As the defendants acknowledge, in support of this argument they rely on a 2010 Superior Court decision rendered under a predecessor version of Sec. 10-31 (a). See #109, page 8. More recently, in the exercise of their discretion, trial courts have considered motions to dismiss even where compliance with the Practice Book did not occur. See *Simon* v. *Within Reason CT, LLC*, Superior Court, judicial district of Stamford-Norwalk, Docket No. FST CV 18 6037451 (February 11, 2019, *Sommer, J.*) (67 Conn. L.Rptr. 868) (citing Practice Book Sec. 1-8,

which provides, "[t]he design of these rules being to facilitate business and advance justice, they will be interpreted liberally in any case where it shall be manifest that a strict adherence to them will work surprise or injustice."). Here, in the exercise of its discretion, even though they did not file a memorandum in opposition, the court has considered the plaintiffs' oral arguments in opposition to the motion.

Ш

Discussion

Α

As discussed above, the plaintiffs seek injunctive relief, including the reversal of rulings by other trial courts, and to have this court issue rulings which would interfere with ongoing proceedings. The defendants argue that, in view of the other ongoing proceedings, the court lacks subject matter jurisdiction, asserting that this action is not justiciable since no practical relief is available.

As discussed above, the plaintiffs did not file a memorandum in opposition. At oral argument, they did not specifically address justiciability. Instead, they argued that since equitable relief is sought the court should schedule a hearing on the underlying facts in order to determine whether there is injunctive relief that could be granted. See Transcript of December 22, 2021 oral argument, pages 22-23.

"Subject matter jurisdiction involves the authority of the court to adjudicate the type of controversy presented by the action before it. . . . [A] court lacks discretion to consider the merits of a case over which it is without jurisdiction. . . . The objection of want of jurisdiction may be made at any time . . . [a]nd the court or tribunal may act on its own motion, and should

do so when the lack of jurisdiction is called to its attention. . . . The requirement of subject matter jurisdiction cannot be waived by any party and can be raised at any stage in the proceedings." (Internal quotation marks omitted.) *Frillici* v. *Westport*, 264 Conn. 266, 280, 823 A.2d 1172 (2003).

"[O]nce the question of lack of jurisdiction of a court is raised, [it] must be disposed of no matter in what form it is presented . . . and the court must fully resolve it before proceeding further with the case. . . ." (Internal quotation marks omitted.) *Esposito* v. *Specyalski*, 268 Conn. 336, 348, 844 A.2d 211 (2004).

"[T]he plaintiff bears the burden of proving subject matter jurisdiction, whenever and however raised." (Internal quotation marks omitted.) Fort Trumbull Conservancy, LLC v. City of New London, 265 Conn. 423, 430 n.12, 829 A.2d 801 (2003).

Citing Valvo v. Freedom of Information Commission, 294 Conn. 534, 985 A.2d 1052 (2010), the Supreme Court, in Mendillo v. Tinley, Renehan & Dost, LLP, supra, 329 Conn. 525-26, reiterated that there is no authority for the proposition that a trial court may overturn a ruling by another trial court: "Rejecting the proposed collateral attack as 'completely unworkable,' we observed that [o]ur jurisprudence concerning the trial court's authority to overturn or to modify a ruling in a particular case assumes, as a proposition so basic that it requires no citation of authority, that any such action will be taken only by the trial court with continuing jurisdiction over the case, and that the only court with continuing jurisdiction is the court that originally rendered the ruling." (Internal quotation marks omitted).

For example, in the Dissolution Action, in a memorandum of decision dated September 14, 2021 (#360), page 1, the court (*Adelman, J.T.R.*) stated that, previously, another Judge had

ordered, "until further orders were entered, that [Ambrose] was to have sole legal and physical custody of the three minor children regarding this matter." In that decision, page 8, the court also stated that "the court will not issue any new custodial orders until it has heard and considered all of the evidence presented. If at that time, changes in those orders are appropriate, the court would . . . enter such new orders. That time has not arrived."

If this court were to consider whether to reverse or overrule these decisions by other trial judges in the Dissolution Action, "[i]t would wreak havoc on the judicial system," (internal quotation marks omitted) *Mendillo* v. *Tinley, Renehan & Dost, LLP*, supra, 329 Conn. 526, by second-guessing the judgment of another trial court in a separate proceeding.

Here, the court concludes that, to the extent that the plaintiffs seek relief from this court in the form of orders which would alter or interfere with decisions made by other trial courts, the plaintiffs' action is "is nonjusticiable because no practical relief is available to the plaintiff[s] insofar as the allegations in the complaint demonstrate that it is nothing more than a collateral attack. . . ." on other proceedings. *Mendillo* v. *Tinley, Renehan & Dost, LLP*, supra, 329 Conn. 527.

В

The defendants also argue that sovereign immunity bars plaintiffs' complaint in its entirety. They contend that the plaintiffs have not met their burden to overcome the applicable strong presumption that the State and its officials acting in their official capacities are immune from suit or liability. "The doctrine of sovereign immunity is a rule of common law that operates as a strong presumption in favor of the state's immunity from liability or suit. . . ."

(Internal quotation marks omitted.) *Hicks* v. *State*, 297 Conn. 798, 801, 1 A.3d 39, 42 (2010).

"The principle that the state cannot be sued without its consent, or sovereign immunity, is well established under our case law. . . . It has deep roots in this state and our legal system in general, finding its origin in ancient common law. . . . Exceptions to this doctrine are few and narrowly construed under our jurisprudence." (Citation omitted; internal quotation marks omitted.) Id.

"[T]he doctrine of sovereign immunity implicates subject matter jurisdiction and is therefore a basis for granting a motion to dismiss." (Internal quotation marks omitted.)

Housatonic Railroad Co. v. Commissioner of Revenue Services, 301 Conn. 268, 274, 21 A.3d 759 (2011). Regarding the exceptions to sovereign immunity, "[i]n the absence of a proper factual basis in the complaint to support the applicability of these exceptions, the granting of a motion to dismiss on sovereign immunity grounds is proper." (Internal quotation marks omitted.) Markley v. Dept. of Public Utility Control, 301 Conn. 56, 66, 23 A.3d 668 (2011).

"[T]he sovereign immunity enjoyed by the state is not absolute. There are exceptions: (1) when the legislature, either expressly or by force of a necessary implication, statutorily waives the state's sovereign immunity . . .; (2) when an action seeks declaratory or injunctive relief on the basis of a substantial claim that the state or one of its officers has violated the plaintiff's constitutional rights . . .; and (3) when an action seeks declaratory or injunctive relief on the basis of a substantial allegation of wrongful conduct to promote an illegal purpose in excess of the officer's statutory authority. . . .

"For [the second and third exceptions], we have imposed specific pleading requirements.

For a claim made pursuant to the second exception, complaining of unconstitutional acts, we require that [t]he allegations of such a complaint and the factual underpinnings if placed in issue, must clearly demonstrate an incursion upon constitutionally protected interests. . . . For a

claim under the third exception, the plaintiffs must do more than allege that the defendants' conduct was in excess of their statutory authority; they also must allege or otherwise establish facts that reasonably support those allegations. . . . In the absence of a proper factual basis in the complaint to support the applicability of these exceptions, the granting of a motion to dismiss on sovereign immunity grounds is proper." (Citations omitted; internal quotation marks omitted.)

DaimlerChrysler Corp. v. Law., 284 Conn. 701, 720–21, 937 A.2d 675 (2007).

The plaintiffs have not addressed the issue of sovereign immunity. For example, they do not contest the defendants' argument that the plaintiffs' claims against the defendants are in their official capacities only. In addition, they do not claim that any of the sovereign immunity exceptions are applicable here. The court addresses each of the exceptions below.

(1)

"[T]he burden is on the plaintiff to establish a statutory waiver of sovereign immunity. The precedent of our Supreme Court instructs that a litigant that seeks to overcome the presumption of sovereign immunity must identify and demonstrate a statutory waiver"

(Internal quotation marks omitted.) *DePietro* v. *Dep't of Public Safety*, 126 Conn. App. 414, 420, 11 A.3d 1149, cert. granted on other grounds, 300 Conn. 932, 17 A.3d 69 (2011).

The plaintiffs have neither identified any statutory waiver relied upon or demonstrated that such a waiver applies by alleging facts showing that it does. See *Traylor* v. *State*, 332 Conn. 789, 802 n.14, 213 A.3d 467 (2019) (requiring statutory waiver expressly or by force of a necessary implication). Thus, they have not met their burden to establish that the first sovereign immunity exception applies here.

As to the second exception, the plaintiffs have not made "a substantial claim that the state or one of its officers has violated the plaintiff[s'] constitutional rights..." *Traylor* v. *State*, supra, 332 Conn. 802, n.14. The plaintiffs have not "specifically allege[d] that [their] constitutional rights had been violated." *Jacques* v. *Comm'r of Energy & Env't Prot.*, 203 Conn. App. 419, 437–38, 249 A.3d 40, 53, cert. denied, 336 Conn. 938, 249 A.3d 352 (2021). Vague references to constitutional rights are insufficient for the court to infer a constitutional violation and need not be considered. See *Jan G.* v. *Semple*, 202 Conn. App. 202, 204 n.2, 244 A.3d 644, cert. denied, 336 Conn. 937, 249 A.3d 38 (2021), and cert. denied, 142 S. Ct. 205, 211 L. Ed. 2d 88 (2021).

The plaintiffs' allegations do not clearly demonstrate an incursion upon constitutionally protected interests. See *DaimlerChrysler Corp.* v. *Law.*, supra, 284 Conn. 720–21. Accordingly, "the allegations . . . [do] not come within the exception to sovereign immunity for alleged violations of constitutional rights." *Jacques* v. *Comm'r of Energy & Env't Prot.*, supra, 203 Conn. App. 440.

(3)

To come within the third exception, the plaintiffs have the burden of making a "substantial allegation of wrongful conduct to promote an illegal purpose in excess of the officer's statutory authority." (Internal quotation marks omitted.) *Traylor* v. *State*, supra, 332 Conn. 802 n.14. "A claim under this exception must do more than make a conclusory allegation that the defendants' conduct was in excess of their statutory authority; it must allege facts that reasonably support such an allegation." *Columbia Air Servs., Inc.* v. *Dep't of Transportation*, 293 Conn. 342, 354, 977 A.2d 636 (2009).

The plaintiffs have not set forth alleged conduct in excess of defendants' statutory authority. Here, the plaintiffs' allegations are conclusory only as to numerous defendants. The plaintiffs allege that the Governor, the Chief Court Administrator, the Commanding Officer of the Department of Emergency Services and Public Protection, the heads of the Office of the Victim Advocate, the Department of Children and Families, and the Office of the Attorney General have knowledge of unspecified failures and have failed to act. No specific, non-conclusory allegations have been made as to the Governor, the Chief Court Administrator, the Commanding Officer of the Department of Emergency Services and Public Protection, the Victim Advocate or her office, the Governor's Task Force on Justice for Abused Children, the Attorney General or his office, or the Child Advocate or her office.

In these circumstances, sovereign immunity bars the plaintiffs' claims against those listed in the previous paragraph. "For a claim under the third exception, the plaintiffs must do more than allege that the defendants' conduct was in excess of their statutory authority; they also must allege or otherwise establish facts that reasonably support those allegations. . . . In the absence of a proper factual basis in the complaint to support the applicability of these exceptions, the granting of a motion to dismiss on sovereign immunity grounds is proper."

(Citations omitted) *Columbia Air Servs., Inc.* v. *Dep't of Transportation*, supra, 293 Conn. 350.

The plaintiffs' allegations make various references to the Department of Children and Families (DCF) but do not set forth a substantial claim of wrongful conduct to promote an illegal purpose in excess of statutory authority. See complaint, page 2, paragraph 4 (DCF "has been put on notice through multiple mandated reporters.").

For example, in the complaint, page 11, paragraph 10, the plaintiffs allege that non-party Stacey Falk of DCF was aware of Riordan's daughter's mental health history and evaluation for

suicidal ideation and asked the daughter about self-harm cutting. The plaintiffs also allege that Falk "gave this information to Ambrose because she is working for Mr. Ambrose and Jocelyn [Hurwitz, a Guardian Ad Litem]." See complaint, page 12, paragraph 11.

The plaintiffs do not claim that Falk's actions were in excess of statutory authority. The alleged facts also do not reasonably support such a claim. The plaintiffs have not shown that, when dealing with such a situation, informing a parent concerning it was precluded by statute. Thus, in the absence of a substantial allegation of wrongful conduct in excess of the officer's statutory authority, the plaintiffs have not met their burden under the third exception. Sovereign immunity also bars the plaintiffs' claims about DCF, including its Commissioner.

In summary, since sovereign immunity bars the plaintiffs' complaint in its entirety, the court lacks subject matter jurisdiction.

C

As noted above, the plaintiffs also request that the court order that Ambrose and unspecified others be arrested. "The Superior Court has subject matter jurisdiction to hear criminal matters from its authority as a constitutional court of unlimited jurisdiction. . . . The Superior Court's authority over criminal cases is established by the proper presentment of the information . . . which is essential to initiate a criminal proceeding. . . . There can be little doubt in Connecticut that historically the prosecution of crime has always been within the province of the state's attorney, appointed as a judicial officer." (Citations omitted; internal quotations marks omited.) *Gawlik* v. *Malloy*, Superior Court, judicial district of New Haven at New Haven, Docket No. CV 18 5043126 (May 31, 2019, *Abrams, J.*), affirmed per curiam, 203 Conn. App. 904, 248 A.3d 90 (2021).

"[T]his is not a criminal case; this is a civil case, filed by the plaintiff, who is an individual and unaffiliated with the state's attorney office." *Gawlik* v. *Malloy*, supra, Superior Court, Docket No. CV 18 5043126. The court also lacks subject matter jurisdiction to order the arrests sought by the plaintiffs.

Since, as explained above, the court lacks subject matter jurisdiction, it need not consider the parties' other arguments.

CONCLUSION

For the reasons stated above, the defendants' motion to dismiss is granted.

BY THE COURT

ROBERT B. SMAPIRO JUDGE TRIAL REFEREE

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Case Name: Riordan v. Lamont

Memorandum of Decision dated: 1/27/2022

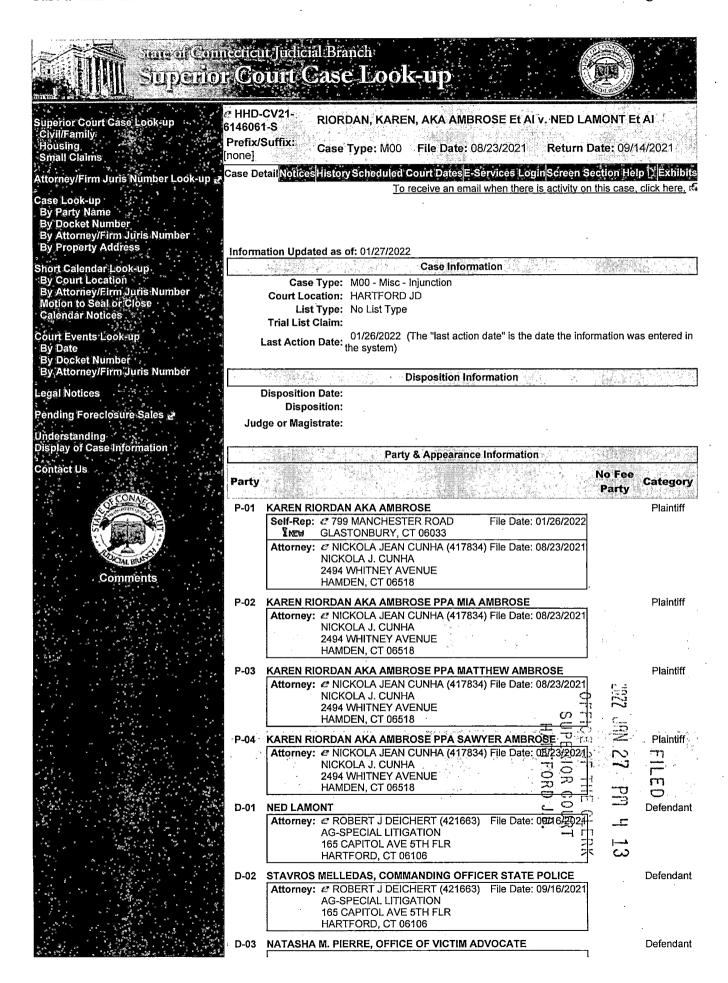
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HARTFORD J.D.



Attorney: @ ROBERT J DEICHERT (421663) File Date: 09/16/2021 AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106	
HAKIMA BEY-COON, GOVERNOR'S TASK FORCE ON JUSTICE	Defendant
Attorney: ROBERT J DEICHERT (421663) File Date: 09/16/2021 AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106	
WILLIAM TONG, OFFICE OF THE ATTORNEY GENERAL Attorney: & ROBERT J DEICHERT (421663) File Date: 09/16/2021 AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106	Defendant
SARAH HEALY EAGAN, CHILD ADVOCATE Attorney: & ROBERT J DEICHERT (421663) File Date: 09/16/2021 AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106	Defendant
PATRICK L. CARROLL, III, CHIEF ADMINISTRATIVE JUDGE Attorney: ROBERT J DEICHERT (421663) File Date: 09/16/2021 AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106	Defendant
VANNESSA DORANTESS, DEPARTMENT OF THE CHILDREN AND FAMILIES	Defendant
Attorney: © ROBERT J DEICHERT (421663) File Date: 09/16/2021 AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD. CT 06106	
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documents protected by law Or by court order that are Not open to the public of by the public online And can only be viewed in person at the clerk's efficiend d by those authorized by law or court order to see them.	
Motions / Pleadings / Documents / Case Status	
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09/16/2021 D APPEARANCE Appearance	
01/26/2022 P APPEARANCE THEM Appearance	
	AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106 HAKIMA BEY-COON, GOVERNOR'S TASK FORCE ON JUSTICE FOR ABUSED CHILDREN Attorney: & ROBERT J DEICHERT (421663) File Date: 09/16/2021 AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106 WILLIAM TONG, OFFICE OF THE ATTORNEY GENERAL Attorney: & ROBERT J DEICHERT (421663) File Date: 09/16/2021 AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106 SARAH HEALY EAGAN, CHILD ADVOCATE AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106 PATRICK L. CARROLL, III, CHIEF ADMINISTRATIVE JUDGE Attorney: & ROBERT J DEICHERT (421663) File Date: 09/16/2021 AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106 PATRICK L. CARROLL, III, CHIEF ADMINISTRATIVE JUDGE Attorney: & ROBERT J DEICHERT (421663) File Date: 09/16/2021 AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106 VANNESSA DORANTESS, DEPARTMENT OF THE CHILDREN AND FAMILIES Attorney: & ROBERT J DEICHERT (421663) File Date: 09/16/2021 AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106 PATRICK L. CARROLL, III, CHIEF ADMINISTRATIVE JUDGE AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106 TO COMMENT OF THE CHILDREN AND FAMILIES AG-SPECIAL LITIGATION 165 CAPITOL AVE 5TH FLR HARTFORD, CT 06106 TO COUNT OF THE CHILDREN AND FAMILIES DOUMENTS ON CIVIL, HOUSING and Small Claims Cases: a is an et in front of the docket number at the top of this page, then the file is: a is an et in front of the docket number at the top of this page, then the file is: a is an et in front of the docket number at the top of this page, then the file is: a is an et in front of the docket number at the top of this page, then the file is: a is an et in front of the docket number at the top of this page, then the file is: a is an et in front of the docket number at the top of this page, then the file is: a is an et in front of the docket number at the top of this page, then the file is: a is an et in front of the docket number at the